



April 28, 2011

Kansas Department of Health and Environment
Kerry Wedel
1000 SW Jackson
Topeka, KS 66612

Kansas Riverkeeper@
Laura Calwell

RE: Comments on Kansas Nonpoint Source Pollution Management Plan, 2010 Update

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Friends of the Kaw

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Dear Mr. Wedel,

Friends of the Kaw (FOK) is a not-for-profit, grassroots environmental organization whose mission is to protect and preserve the Kansas (Kaw) River for present and future generations. Our organization understands that protection and preservation of the main stem Kaw is very dependent on the protection and preservation of the Kansas River watershed. Last summer FOK sent a Letter of Intent to sue EPA because the State of Kansas has not set legally enforceable nutrient criteria. At the current time we are working with the State of Kansas and other stakeholders to reach a negotiated solution that will hopefully eliminate the need for further legal action.

Nonpoint source pollution is one of the major pollution problems to surface water worldwide and we commend the State of Kansas for identifying the many issues of concern in the draft Kansas Nonpoint Source Management Plan, 2010 Update. The draft 2010 Update sets both long and short-term goals, defines objectives and identifies strategies to address voluntary nonpoint source pollution and highlights the NPS Program accomplishments to date but does not relate any progress in meeting the specific targets of 2004 Surface Water Nutrient Reduction plan. We are encouraged by the many program highlights that are occurring on both state and local levels, and the many activities being undertaken by WRAPS groups in the Kaw watershed but are concerned about continued funding to keep these programs viable.

While we agree that some progress in water quality conditions for certain pollutants is occurring we are very discouraged by the 2010 Update conclusion that:

"Other pollutants (nitrate, phosphorus) and parameters (DO, pH) have yet to demonstrate notable reductions stemming from anthropogenic influences."

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It appears that in six years relatively little has been accomplished to achieve the targeted goals set in the 2004 Surface Water Nutrient Reduction Plan particularly in the nonpoint source loads of nitrogen and phosphorous. The 2004 document sets the following reduction targets for both nitrogen and phosphorus:

- **An overall 30% reduction in nitrogen appears to be attainable for Kansas by utilizing a combination of point and nonpoint source controls.**
- **An overall 30% reduction in TP appears to be attainable for Kansas by utilizing a combination of point and nonpoint source controls. However, as indicated by lake TMDLs, greater reductions may be needed to restore and protect reservoirs for drinking water, recreation and aquatic life support.**

We applaud the State of Kansas for considering setting a Chlorophyll-a criteria for public water supply lakes or reservoirs. We would prefer that the State adopted the fourth option listed in the White Paper: Adopt RTAG's benchmark for Chlorophyll-a (8 µg/L) as the criterion. We believe that the RTAG benchmark is a target that is more realistic for management, since at this level steps could be taken before water quality deteriorated to the point where there would be serious environmental or human health consequences; setting a level higher than 8 µg/L would not provide adequate protections.

We believe that the state should also set Total Phosphorous (TP) and Total Nitrogen (TN) criteria for public water supply lakes and reservoirs. This is realistic given that TP and TN are currently monitored in these water bodies. There are datasets already available on nutrient levels over many years, which can be related to data on Chlorophyll-a, geosmin, and fecal coliform bacteria, all of which have negative impacts on drinking water sources. Given the extensive publicity that taste and odor problems in these water supplies has gotten in recent years, it should be easy to garner public support for measures reducing nutrients in drinking water reservoirs. It will also set the stage for setting TP and TN regulations for rivers and streams that are public water supplies. Setting numeric criteria for these nutrients is a necessary step to reaching the targets set out in the 2004 Surface Water Nutrient Reduction Plan. Without specifying actual criteria it will be impossible to judge the success or failure of the objectives and goals of the 2010 Update.

We also believe that if the State of Kansas is serious about reducing nutrient levels in our drinking water reservoirs, rivers and streams they need to update their testing protocol. Accurate data concerning TP, TN and Sediment need to be acquired during or just after heavy rain events as well as testing under normal conditions. It is my understanding that currently data collected by the state of Kansas during or after heavy rain events only occurs if it happens to rain on previous determined testing dates.

I attended the 2011 WRAPS conference in Junction City on April 26 and found Key Note Speaker, Deanna Osborn's presentation to be very informative. She stressed that to make progress in reducing non-point source pollution, the state must understand system monitoring, know their objective, and they MUST have good and consistent monitoring and rigorous land use data. She also stated that the states that made the most progress either had some regulatory framework in place or were considering regulatory framework for non-point source pollution.

Friends of the Kaw commends the State of Kansas for identifying nonpoint source water quality concerns but are very discouraged by the lack of progress to actually address the problems. We also believe that limiting the effort to voluntary actions and compliance will result in unacceptably slow progress towards seriously addressing both state and national problems caused by nonpoint source pollution.

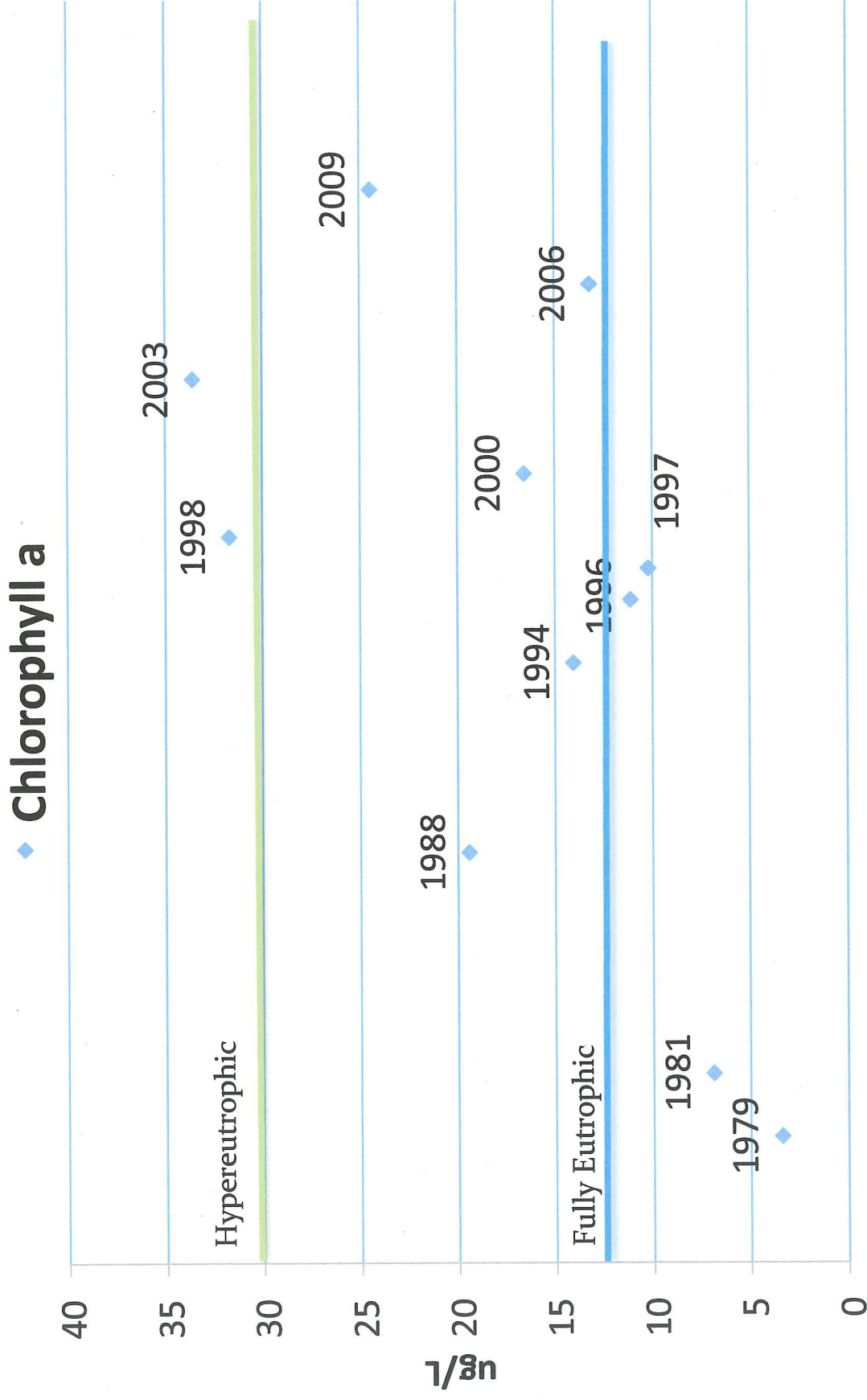
Friends of the Kaw understands the difficulty the state faces in setting regulations concerning non-point source pollution. However, we believe clean drinking water for the entire state should outweigh allowing the actions and/or non-actions of a small number of land owners to compromise the quantity and quality of our public drinking water supplies.

Sincerely,

A handwritten signature in blue ink that reads "Laura Calwell". The signature is written in a cursive style with a large, stylized "L" and "C".

Laura Calwell,
Kansas Riverkeeper for Friends of the Kaw

Clinton Reservoir June- August Samples



1979-2009, KDHE



**Comments on KDHE's 2010 Update
Non-Point Source Pollution Management Plan**

**Mary Jane Stankiewicz, COO & Senior Vice President of Government Affairs
Kansas Grain & Feed Association
Kansas Agribusiness Retailers Association**

**Leslie Kaufman, President/CEO
Kansas Cooperative Council**

**April 28, 2011
Topeka, Kansas**

Thank you for the opportunity to comment on the Kansas Department of Health & Environment's *2010 Update to the Kansas Nonpoint Source Pollution Management Plan* (2010 Update). The Kansas Grain & Feed Association (KGFA) is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

The Kansas Agribusiness Retailers Association's (KARA) membership includes over 700 agribusiness firms that are primarily retail facilities which supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry.

The Kansas Cooperative Council (KCC) is a voluntary, statewide trade association representing all forms of cooperative businesses across the state – agricultural, utility, credit, financial, refining and consumer cooperatives. Many of our ag co-ops will also be members of the KGFA and/or KARA. Our cooperative members are owned and controlled by agricultural producers.

As agribusinesses, our collective members are integral components of the state's production agriculture industry. We are the crop input providers and the grain handlers. Regulations impacting land and water resources in this state have a direct impact on our membership. Thus, our associations and our respective members have a unique stake in the nonpoint source (NPS) pollution dialogue.

As stakeholders, over the years we have participated in a variety of meetings, programs, and presentation related water quality. We have long appreciated KDHE's willingness to partner with stakeholders to find practical, workable processes for addressing our state's water quality

issues. As we reviewed the *2010 Update*, we noted where this approach has resulted in widespread "buy-in" from producers, conservation interests, government entities and other interested parties participating in projects which are having a beneficial impact on the state's water quality. We have always favored public/private partnerships as prudent means of addressing environmental issues and believe the approaches KDHE and its partners have implemented testify to the benefits that can be gained through collaborative approaches.

We believe a critical element in the successes of these partnerships is connecting with those at local levels. The Kansas watershed restoration & protection strategy (WRAPS) is a prime example of how state-local cooperation leads to positive results. These types of pragmatic approaches are sound, bring a wide array of stakeholders together for a common purpose and foster a sense of cooperation. We would caution the agency about attempts to move away from such models to a more bureaucratic scenario where those implementing the strategies are mandated to take prescriptive actions rather than included in developing best management practices (BMPs). The latter does little if anything to foster inclusion or buy-in from the regulated community and would entirely undermine the positive working relationships KDHE has created through their current approaches.

We believe the *2010 Update* builds upon strengths in the current program. One of the beneficial aspects of the existing approach is the prioritization that takes place within the management framework. Again, it pulls in local stakeholders, but the system helps maximize the benefits that are and can be achieved. By carefully targeting resources (technical, financial, and projects implemented) the state has been able to achieve "more bang for the buck" in producing results. As a state, we can show improvements where once significant impairments existed. Rather than scattered, mini-projects that would have been too small and too far flung to affect real change, our targeted methodology accomplishes results. We encourage KDHE to continue to work through prioritized, target-based approaches to continue to make the most out of the resources available to us.

Our associations and our members understand protecting water quality is an on-going endeavor. We think Kansas has developed a workable, practical approach to seeking water quality improvements and reducing significant impairments. We encourage KDHE to continue in this model and we look forward to working with them in cooperative endeavors.

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Greg A. Foley, Executive Director

State Conservation Commission

Sam Brownback, Governor

April 25, 2011

John Mitchell, Director
Division of Environment
Kansas Department of Health and Environment
1000 SW Jackson St., Suite 400
Topeka, KS 66612-1367

RE: Kansas Nonpoint Source Pollution Management Plan, 2010 Update

Dear John:

State Conservation Commission (SCC) staff has reviewed the Kansas Nonpoint Source Pollution Management Plan, 2010 Update for addressing nonpoint source pollution in Kansas and is in full support of the plan. State Conservation Commission programs deal with source water protection, surface and groundwater protection, and natural resource management. Coordination of activities and programs identified in the plan to address nonpoint source pollution in Kansas should help better address natural resource needs at the local level.

Again, the SCC supports the Kansas Nonpoint Source Pollution Management Plan, 2010 Update and looks forward to working with KDHE and other partners on addressing nonpoint source pollution issues in the future.

Sincerely,

Greg A. Foley
Executive Director

Received

APR 26 2011

DIRECTOR OF ENVIRONMENT
DEPT. OF HEALTH & ENVIRONMENT

The University of Kansas

Received

APR 25 2011

Kansas Biological Survey

DIRECTOR OF ENVIRONMENT
DEPT. OF HEALTH & ENVIRONMENT

April 21, 2011

John Mitchell, Director
Division of Environment
Kansas Department of Health and Environment
1000 SW Jackson Street, Suite 400
Topeka, KS 66612-1367

RE: Kansas Nonpoint Source Pollution Management Plan – 2010 Update

Dear Director Mitchell,

Reducing nonpoint source impacts on Kansas' aquatic resources has been and will continue to be a significant challenge that requires concerted efforts on the part of Federal and State agencies as well as local resource managers and private landowners. The recently completed 2010 update of the *Kansas Nonpoint Source Pollution Management Plan* provides an excellent framework and strategy to address the challenge. Following the nine key EPA program elements that have been added to the Plan along with achieving the highlighted objective of coordination and collaboration among agencies and resource management organizations should build on the successes that have already been realized.

The Kansas Biological Survey is pleased to be a partner in KDHE's ongoing efforts to restore and protect Kansas watersheds and improve the water quality of the State. We feel that the effort can be further advanced through KDHE's leadership, the cooperation of all participating resource managers, and following the updated *Kansas Nonpoint Source Pollution Management Plan*. The Biological Survey looks forward to assisting in the implementation of the Plan and appreciated the opportunity to have been a participant in the Plan update.

Sincerely,



Edward A. Martinko, Director
Kansas Biological Survey

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Tracy Streefer, Director

Sam Brownback, Governor

April 21, 2011

John Mitchell, Director
Division of Environment
Kansas Department of Health and Environment
1000 SW Jackson Street, Suite 400
Topeka, KS 22212-1367

Dear Mr. Mitchell:

The Kansas Water Office offers this letter of support of the Kansas Nonpoint Source Pollution Management Plan 2010 Update. The objectives, goals, and strategies to achieve these goals are in concert with the priorities of the Kansas Water Plan.

Presentations on the Plan were provided at all Basin Advisory Committee (BAC) meetings in March and April 2011, allowing for an open, state-wide opportunity for citizens to provide feedback on the Plan. Approval and implementation of the updated plan is an important step in the achievement of our state's nonpoint source water quality goals.

Sincerely,

Susan Metzger
Manager, Watershed Coordination Unit
WRAPS Workgroup Member

Received

APR 21 2011

DIRECTOR OF ENVIRONMENT
DEPT. OF HEALTH & ENVIRONMENT



April 20, 2011

**Kansas Center for Agricultural
Resources and the Environment**
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Fax: 785-532-6563

John Mitchell, Director
Division of Environment
Kansas Department of Health and Environment
1000 SW Jackson Street, Suite 400
Topeka, KS 22212-1367

Dear Mr. Mitchell:

I am writing to express my support for the updated "Kansas Nonpoint Source Pollution Management Plan." I have reviewed the document and I believe it sets the right path for the future. I also want to express my appreciation to KDHE staff for allowing me to participate in the process of updating the plan.

Sincerely,

Daniel L. Devlin
Director

Received

APR 26 2011

DIRECTOR OF ENVIRONMENT
DEPT. OF HEALTH & ENVIRONMENT

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opportunity provider and
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Kerry Wedel

From: Norm Bowers, Local Road Engineer [bowers@kansascounties.org]
Sent: Tuesday, April 12, 2011 10:22 AM
To: Kerry Wedel
Subject: Comment on Nonpoint Source Pollution Management Plan

The counties have ongoing concerns about work along channels by private land owners and their contractors without appropriate permits from the Corps and Division of Water Resources. Many times this work leads to channel instability and undercutting which adversely affects our stream crossings. Many perched culverts have been caused by channel work by land owners.

We think an item missing in the plan is education and involvement of various contractor groups that perform dirt work for land owners.

Norm Bowers, Local Road Engineer
Kansas Association of Counties
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785-272-2585 Ext. 314